HONOURABLE SHRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No.8988 OF 1999

Dated 19th July, 2006

Between:
P.Guravaiah S/o Venkateswarlu

… Petitioner

And

Assistant Security Commissioner,
Railway Protection Force, South Central
Railways, Vijayawada and another.

…Respondents.

ORDER:

The petitioner, who is a Reserve Police Constable, has filed this writ petition questioning the punishment of stoppage of increment for a period of two years from 1.3.1999 imposed by the primary authority by order dated 23.12.1998 in proceedings No. B/XP.227/158/98/210, as confirmed by the appellate authority by order dated 23.3.1999 in proceedings No.B/XP.227/158/98/210 as illegal and arbitrary.

The allegation against the petitioner is to the effect that on the intervening night of 10/11th October, 1998, the petitioner, after duty, went to Railway Station, Nellore to see off his brother and thereafter, though the petitioner was present at the parcel office where some quarrel took place, he failed to take immediate action or inform his superiors regarding the said incident. Alleging misconduct on account of the same, show-cause notice was issued to the petitioner and in the explanation, the petitioner admitted his presence at the parcel office of Railway station and stated the persons who were responsible for the indiscipline near parcel office and he is stated to have pacified them. Dissatisfied with the explanation offered by the petitioner, the final authority has passed an order imposing the punishment of stoppage of one increment for a period of two years, which is a minor punishment.

It is the case of the petitioner that he was not on duty and as such, no misconduct can be alleged against the petitioner. In that view of the matter, it is submitted by Shri Naidu that the imposition of

punishment of stoppage of one increment by the primary authority as confirmed by the appellate authority is unwarranted.

In exercise of power under Section 21 of the Railway Protection Force Act, 1957, Railway Protection Force Rules, 1987 are framed. Rules 146.1 and 146.2 of the said rules, which are relevant, are reproduced below:

> "146.1 All members of the Force, irrespective of their ranks, shall submit themselves to the requirement of the following code of behaviour, both on and off duty. It shall be incumbent upon all members of the Force to respect the code of behaviour and maintain an attitude of complete discipline and obedience to it. Any breach of these provisions on the part of any member of the Force shall constitute misconduct and shall be punishable under the Railway Servants (Discipline and Appeal) Rules, 1968 as applied to superior officers, or, as the case may be, under Section 9 or Section 17.
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> 146.2 Neglect of duty:
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> No member of the Force without good and sufficient cause shall-
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> (i) neglect or omit to attend to or fail to carry out with due promptitude and diligence anything which is his duty as a member of the Force to attend to or carry out; or
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> (ii) fail to work in his beat in accordance with orders or leave the place of duty to which he has been ordered or having left his place of duty for a bona fide purpose fail to return thereto without undue delay; or
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> (iii) be absent without leave or be late for any duty, or
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> (iv) fail property to account for, or to make a prompt and true return of any money or property received by him in the course of his duty."

Though it is the case of the petitioner that he was off the duty on that date and no misconduct can be alleged, but, however, counter affidavit has been filed giving the details of the incident which had taken place near the parcel office on that date, in which it is stated that the parcel clerk Mr.Subbaiah was found inside the parcel office

room along with a lady and at that time, even the petitioner was also found at the place. Though it is stated that the petitioner was off the duty, but the very misconduct alleged is serious one and in spite of the same, the competent authority and the appellate authority have taken liberal view by imposing only stoppage of one increment. The only submission of the learned counsel for the petitioner that the petitioner was off duty is no ground at all as he has admitted his presence at the time of incident and which amounts to misconduct within the meaning of Rule 146 of the Railway Protection Force Rules, 1987.

In that view of the matter, I do not find any illegality in the order imposing punishment of stoppage of one increment for two years, as confirmed by the appellate authority, which warrants interference.

The writ petition, which is devoid of merits, is dismissed accordingly. No costs.

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19.7.2006 **(R.SUBHASH REDDY, J.)**

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